IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 36160 of 2007(D)

OS.65/2006 of SUB COURT, PATHANAMTHITTA
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PETITIONERS:

PEEDIKAYIL DEVIVILASOM HINDAVA SEVA SANGAM, NO.Q 25/1979 PANNIVIZHA REPRESENTED BY ITS SECRETARY, B.U. SHAJI, AGED 36 YEARS S/O. BHANU, BHANU NILASOM, PANNIVIZHA MURI, ADOOR VILLAGE.

BY ADV. SRI.D.KISHORE
SMT.MEERA GOPINATH

RESPONDENTS:
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1. **P.K. VASUDEVAN PILLAI S/O. PARAMESWARAN PILLAI RAGHAVA VILASOM, PANNIVIZHA MURI, ADOOR VILLAGE.**
2. **ADICHAN K.K.,S/O. KELAN KURIKKADA NUKALIL, PANNIVIZHA MURI, ADOOR VILLAGE.**
3. **GOPALA PILLAI, S/O.GOVINDAN PILLAI CHENNATHU JANAKI VILASOM PANNIVIZHA MURI, ADOOR VILLAGE.**
4. **SUNIL KUMAR, S/O. PURUSHOTHAMAN POTTAI CHENNATTIC VENU BHAVAN, PANNIVIZHA MURI,ADOOR VILLAGE.**
5. **GOPAKUMAR,S/O. NANUKURUP PANACHAYATH, KALLITTATHIL VEEDU IKADU MURI, ADOOR VILLAGE.**

6. A.UDAYABHANU,S/O.AYYAPPAN
KAITHAKKARA VEEDU, PANNIVIZHA MURI
ADOOR VILLAGE.

7. GOPINATHAN NAIR,S/O. RAGHAVAN PILLAI
NAMBUMADATHIL VADAKKETHIL,
PANNIVIZHA MURI ADOOR VILLAGE.

8. CHELLAPPAN PILLAI,S/O. KRISHNAN PILLAI
MANGALATHU VEEDU, IKADU, ADOOR VILLAGE.

9. BIJU,S/O.SREEDHARAN
THARAYIL VEEDU, PANNIVIZHA MURI,
ADOOR VILLAGE.

10. V.E.NARAYANA KURUP,S/O. RAMAN PILLAI
VIJAYA VILASOM, PANNIVIZHA MURI, ADOOR VILLAGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No. 36160 OF 2007

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Dated this the 7th day of December 2007

JUDGMENT

This writ petition is preferred against the order in I.A.No.1237 of 2007 in O.S.No.65 of 2006. The grievance of the petitioner is that the said application is filed in the same lines which was not entertained by this Court and it is only to underestimate the orders of this Court such a prayer is moved before the court below. This Court while disposing of W.P.(C) No.10112 of 2007 directed that in case the initial leave granted under Section 92 of the C.P.C. is revoked allowing Ext.P7 application Exts.P5 and P8 applications will not be maintainable. It is also directed that appropriate orders are passed on Ext.P7 before consideration of Exts.P5 and P8 applications for appointment of receiver and grant of injunction. Thereafter the plaintiffs have moved the application whereby they had requested the court to grant an order of status quo so far as it relates to the temple building and other buildings till the disposal of the revocation application. The court below granted the same and it is against that order the present writ petition is filed.

2. When a suit is filed under Section 92 of the C.P.C., the court is necessarily bound to consider the questions involved and the court has also to find out whether it comes within the ambit of Section 92 and when an application for revocation is filed that also has to be considered. But, at the same time, the object of filing the suit and the parties for which it is instituted have to be born in mind by the court of law. Ordinarily the court cannot pass any orders which will affect the day today administration of the temple especially when Section 92 permission is challenged by filing an application for revocation. But, at the same time the object of the suit cannot be forgotten and it is always the duty of the court to preserve the property as what it is at least till a preliminary decision on Section 92 sanction is taken by the court. This court was considering the writ petition on the wider ambit of the prayers mentioned by the plaintiffs in the suit. But, now what the court has done is only to pass an order, I may say, an interim arrangement not to change the physical features of the property and maintain status quo till the revocation application is heard. I do not find it is an error committed by the court below.

Therefore I refuse to interfere with the decision rendered. Hence it is dismissed. But, I make it clear that this order will only relate to alteration of physical features and destruction of the property and as there is urgency on

the matter, the court below is directed to take the revocation application which I am able to understand is posted for today and try to dispose it of , if possible before the court closes for X'mas holidays or at least by 5.1.2008. Needless to say that the parties are free to approach the court below for appropriate directions as they choose to do so.

M.N.KRISHNAN, JUDGE

Cdp/-